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On behalf of the United States Bankruptcy Appellate Panel of the Tenth Circuit (BAP), I am pleased to provide this report on our seventh full year of operation.

The number of bankruptcy appeals in all participating BAP districts remained approximately the same as 2002. The number of appellants electing to proceed before the BAP increased from 66% to 73%. Through the end of 2003, 86 BAP decisions have been appealed to the Tenth Circuit Court of Appeals. Of these, 69 have been concluded. Thirty-two were decided on the merits and affirmed the decision of the BAP; 34 were dismissed; the remaining three were reversed and remanded. For the seventh year, the judges of the BAP have achieved their goal of disposing of most appeals in approximately 60 days from submission, with a 2002 median “submission to disposition” time of 63 days. The time span from the date the notice of appeal was filed with the Bankruptcy Court to the date the BAP entered a final judgment averaged 151 days.

As with last year, this year again brought major changes to the composition of the panel. On May 6, 2003, Chief Circuit Judge Tacha appointed the Honorable Elizabeth E. Brown, Bankruptcy Judge, District of Colorado, the Honorable Peter J. McNiff, Bankruptcy Judge, District of Wyoming, and the Honorable William T. Thurman, Bankruptcy Judge, District of Utah, to the panel, replacing the Honorable Donald E. Cordova, who passed away, and two founding members of the BAP, the Honorable Judith A. Boulden and the Honorable James A. Pusateri. I would like to congratulate Judge Pusateri on the occasion of his retirement and wish him well in his future endeavors. I would like to thank Judge Pusateri and Judge Boulden for their extensive contributions to the BAP, both in their capacity as panel members and for their service on the BAP Local Rules of Practice Committee. Their wealth of knowledge, especially in the early stages of the BAP, contributed directly to the success of the BAP in the Tenth Circuit. They will be missed.

The Judicial Council’s resolution approving the establishment of the BAP states that “The Chief Judge of the BAP, with the advice and the consent of the Chief Circuit Judge, may from time to time designate any active or recalled bankruptcy judge, not otherwise appointed to the Bankruptcy Appellate Panel, to serve on a pro tem basis.” The use of pro tem judges provides the panel with additional experience and expertise and serves to strengthen the efforts of the BAP. In 2003, two of my esteemed colleagues served as pro tem judges for the BAP, the Honorable Dana L. Rasure, Bankruptcy Judge, Northern District of Oklahoma, and the Honorable James S. Starzynski, Bankruptcy Judge, District of New Mexico. On behalf of the BAP, I would like to extend our sincere appreciation to them for their service.

In addition to their participation on the panel, Judge Boulden, Judge Michael, and Judge Nugent made significant donations of their time and talents in completing the BAP Judges' Handbook. The Handbook was written to provide guidance on the BAP process to pro tem and new BAP judges. The clarity and comprehensiveness of the Handbook have proven to be invaluable to the BAP. Many thanks are due to these three judges for their dedication to this project.

By invitation from the Ninth Circuit BAP, the Tenth Circuit BAP judges attended the Ninth Circuit BAP Judges Conference. Guest speakers included the Honorable Michael R. Murphy of the United States Court of Appeals for the Tenth Circuit, and the Honorable William A. Fletcher, United States Court of Appeals for the Ninth Circuit. Judge Murphy offered for consideration his insights on effective appellate practices and discussed the differences between being a trial court and appellate court judge. Judge Fletcher discussed many difficult and complex issues regarding sovereign immunity. The Ninth and Tenth Circuit BAP judges exchanged practices and procedures, and each gained valuable knowledge. It is not often that business is conducted in such an open forum and pleasant environment, and the Tenth Circuit BAP judges enjoyed this opportunity. On behalf of the BAP, I would like to extend our appreciation to Judge Murphy for his attendance and presentation. I would also like to thank Judge Clark and Judge McNiff of the Tenth Circuit BAP Judges Administrative Meeting Committee, who made the joint meeting a success.

With a visit to the District of Wyoming, the BAP Clerk's Office completed its goal of traveling to each of the participating BAP districts. Staff from the BAP Clerk's Office met with the bankruptcy bar and staff from the Bankruptcy Court Clerk's Office. Informational packages containing the BAP local rules, the Guide to BAP Appeals, a list of frequently asked questions, and a handout specifically addressing the needs of the bar and the court were distributed. The presentations were well attended, and the comments received from the members of the bar and the Bankruptcy Court staff were favorable. I would like to thank the Bankruptcy Court staff for their participation. The BAP will continue to explore and develop methods of disseminating information throughout the Circuit and nationally, with continuing education of the bankruptcy bar, the public, and other court units remaining an important focus.

The BAP continues to make changes to adapt to the advanced technology used by the Bankruptcy Courts and by the public. First, as the bankruptcy version of the new case management and electronic case filing system ("CM/ECF") is implemented in a court, the BAP registers to become a user and begins docketing directly into the system. Papers normally served on the bankruptcy courts by mail are electronically filed, thereby eliminating the cumbersome scanning process for the bankruptcy court. Second, to better serve all parties and provide significant and meaningful access to BAP records, the BAP instituted a policy to image papers, other than briefs and appendices, and make them available to the public through the PACER internet website. Finally, the BAP adopted a

policy to allow parties to file copies of a paper, including the brief or appendix or both, on Compact Disk, upon compliance with certain conditions. The BAP looks forward to the release of the appellate version of CM/ECF, anticipated in the Spring of 2005.

In closing, I must again acknowledge that the accomplishments of the BAP would not have been possible without the considerable assistance and support of my colleagues, the Judges of the Tenth Circuit Court of Appeals, the Office of the Circuit Executive, the Tenth Circuit Clerk's Office, the District and Bankruptcy Court Judges and Clerks' Offices, and the Bankruptcy Appellate Panel Clerk's Office. As always, their advice and support are very much appreciated.